

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CITY OF SOUTH BEND, BY ITS)	
CORPORATION COUNSEL ALADEAN M.)	
DEROSE)	
)	
Petitioner,)	
)	
vs.)	CASE NO. 3:12-CV-475-JVB-CAN
)	
UNITED STATES OF AMERICA, ERIC H.)	
HOLDER, JR., IN HIS OFFICIAL CAPACITY AS)	
ATTORNEY GENERAL OF THE UNITED)	
STATES, SOUTH BEND COMMON COUNCIL,)	
TIM CORBETT, DAVE WELLS, STEVE)	
RICHMOND, BRIAN YOUNG, AND SANDY)	
YOUNG.)	
)	
Respondents.)	

JOINT MOTION FOR ENTRY OF PROTECTIVE ORDER

The City of South Bend and Brian Young, Sandy Young, Timothy Corbett, David Wells, and Steve Richmond, by counsel, pursuant to Fed. R. Civ. P. 26(c)(1), respectfully move the Court for entry of a protective order in the form attached to this motion as Exhibit A. In support of their motion, the parties state as follows:

1. A significant issue in the above-captioned litigation is whether certain recordings were made in violation of the Federal Wiretap Act, 18 U.S.C. § 2511(a) (the “Act”). If the recordings were obtained unlawfully, using or disclosing the contents of the recordings may constitute a civil or criminal offense in violation of the Act. 18 U.S.C. 5211(1)(c).

2. The parties have sought and will be seeking documents and other materials through discovery in this matter that may disclose information related to or contained in the recordings (the “Confidential Information”). The Confidential Information is not available

in the public domain, and use or disclosure of this information could cause irreparable harm to parties by potentially violating their privacy rights or subjecting them to civil or criminal liability.

3. Pursuant to Fed. R. Civ. P. 26(c)(1), “[t]he Court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” including an order “forbidding the disclosure of discovery.” Fed. R. Civ. P. 26(c)(1)(A).

4. Pursuant to Fed. R. Civ. P. 26(c) and in compliance with *Citizens First National Bank of Princeton v. Cincinnati Ins. Co.*, 178 F.3d 943 (7th Cir. 1999), good cause exists for a protective order that prohibits disclosure of the Confidential Information at least until such time as the Court has ruled on the lawfulness of the recordings. *See U.S. v. Dorfman*, 690 F.2d 1230, 1233 (7th Cir. 1982) (“[T]he strict prohibition in Title III against disclosure of unlawfully obtained wiretap evidence would be undermined by public disclosure of wiretap evidence . . . before the judge ruled on the lawfulness of the wiretaps.”).

WHEREFORE, the City of South Bend and Brian Young, Sandy Young, Timothy Corbett, David Wells, and Steve Richmond respectfully request that the Court enter a protective order in the form attached as Exhibit A to this motion, and further request such other relief as is just and proper.

Respectfully submitted,

s/ Edward A. Sullivan, III

Edward Sullivan, III
James P. Hanlon
Faegre Baker Daniels LLP
202 S. Michigan St., Suite 1400
South Bend, IN 46601

Counsel for the City of South Bend

s/ Daniel H. Pfeifer

Daniel H. Pfeifer
Jeffrey J. Stesiak
Pfeifer Morgan & Stesiak
53600 N. Ironwood Drive
South Bend, IN 46635

*Counsel for Brian Young, Sandy Young,
Timothy Corbett, David Wells, and Steve
Richmond*